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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/437,006	11/09/1999	TAMMY ZHENG	PHA 51219	7398
24738	7590	10/02/2003	EXAMINER	
PHILIPS ELECTRONICS NORTH AMERICA CORPORATION INTELLECTUAL PROPERTY & STANDARDS 1109 MCKAY DRIVE, M/S-41SJ SAN JOSE, CA 95131			CHEN, KIN CHAN	
			ART UNIT	PAPER NUMBER
			1765	

DATE MAILED: 10/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/437,006	<b>Applicant(s)</b> ZHENG ET AL.
	<b>Examiner</b> Kin-Chan Chen	<b>Art Unit</b> 1765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 21 August 2003.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1 and 3-21 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1 and 3-21 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, and 4-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grimbergen et al. (US 6,081,334; hereinafter "Grimbergen") in view of Witek et al. (US 5,627,395; hereinafter "Witek").

In a process of forming a semiconductor device, Grimbergen teaches that a least one device layer (e.g., polysilicon) and an anti-reflective coating may be formed over a wafer surface. A hard mask may be provided over a portion of the device (col. 5, lines 51-67, Figs. 1a and 1b). A plasma-etch may be applied using first and second etching chemistries and selectively etching into the device layer to form a pillar structure (such as gate electrode) having at least one sidewall. The first chemistry may include HB<sub>r</sub>, Cl<sub>2</sub>, He-O<sub>2</sub>. After using the first chemistry, a plasma-etch using a second chemistry may be performed. The halogen content of the etchant gas may be reduced to obtain slower and more controllable etch rates (col. 18, lines 15-30) in order to stop the etching process without etching through the silicon dioxide underlayer on the substrate (col. 18, lines 15-17).

Unlike the claimed invention, Grimbergen does not teach using nitrogen, rather, Grimbergen teaches using Helium (He) in the second etching chemistry. Grimbergen teaches, after using the first chemistry, using a plasma-etch of a second chemistry that the halogen content of the etchant gas may be reduced to obtain slower and more controllable etch rates in order to stop the etching process without etching through the silicon dioxide underlayer on the substrate. In a method of polysilicon etching, Witek teaches that HBr and Cl<sub>2</sub> are generally used and the inert gas such as Ar, He, or nitrogen may be used. It would have been obvious to one with ordinary skilled in the art to use nitrogen of Witek in Grimbergen process because Witek teaches the equivalence between using He and nitrogen in the processes that are similar to those as taught by Grimbergen wherein polysilicon is etched. The substitution of one for the other would have been expected to provide the same function and effect of a non-reactive (inert) gas in the etching process and help provide slower etch rates in the second-stage etching. Furthermore, it is notoriously well known that in the dry etching process, the inert gas is used for diluting the etchant and changes the etching rate (also see Wang et al. (US 6,232,184) in the record as evidence).

The limitations of dependent claims 4, 9-11, 14, 20, and 21 have been addressed above and rejected for the same reasons, *supra*.

The instant claims differ from Grimbergen and Witek by specifying various nitrogen amount (percent) in the second chemistry (such as claims 1, 3, 5, 7, 8, 15-18). However, a skilled artisan understands that in a plasma etching, the reactive gas content in the etchant gas may be diluted using inert gas in order to obtain slower and

more controllable etch rates. Therefore, it would have been obvious to one with ordinary skill in the art to use suitable amount of nitrogen in the process of Grimbergen and Witek in order to obtain slower and more controllable etch rates and stop the etching process without etching through the silicon dioxide underlayer on the substrate.

As to dependent claims 7, 13, and 19, Grimbergen teaches that the first chemistry includes a selectivity booster (such as He-O<sub>2</sub>), see col. 18, lines 22-23.

The above cited claims differ from the prior art by specifying well-known features (such as SiON hardmask in claim 12) to the art of semiconductor device fabrication. A person having ordinary skill in the art would have found it obvious to modify Grimbergen and Witek by using any of same well-known features to same in order to provide their art recognized advantages and produce an expected result.

It is noted that applicant did not traverse the aforementioned conventionality (e.g., well-known features, obviousness), which have been stated in the office action in Paper No. 16.

### ***Response to Arguments***

3. Applicant's arguments filed August 21, 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., adding a small amount of nitrogen **during the endpoint stop prevents the notch**

**without affecting selectivity)** are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant has argued that Grimberger does not teach using nitrogen. As has been stated in the office action, Witek teaches that HB<sub>r</sub> and Cl<sub>2</sub> are generally used and the inert gas such as Ar, He, or nitrogen may be used. It would have been obvious to one with ordinary skilled in the art to use nitrogen of Witek in Grimbergen process because Witek teaches the equivalence between using He and nitrogen in the processes that are similar to those as taught by Grimbergen wherein polysilicon is etched. The substitution of one for the other would have been expected to provide the same function and effect of a non-reactive (inert) gas in the etching process and help provide slower etch rates in the second-stage etching.

One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. *In re Merk &Co., Inc.*, 800F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant has argued that the combined reference does not teach a selectivity booster, in fact, as has been stated in the office action, Grimbergen teaches that the first chemistry includes a selectivity booster (such as He-O<sub>2</sub>), see col. 18, lines 22-23.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wang et al. (US 6,232,184; col. 3, lines 35-38) teaches that the inert gas may be used for diluting the etchant.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kin-Chan Chen whose telephone number is (703) 305-0222. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nadine Norton can be reached on (703) 305-2667. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2934.

K-C C

September 30, 2003



**KIN-CHAN CHEN  
PRIMARY EXAMINER**